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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,540	07/30/2003	David J. Snceringer	112325.123US2	6502
28089	7590	04/18/2007		
WILMER CUTLER PICKERING HALE AND DORR LLP			EXAMINER	
399 PARK AVENUE			BORISSOV, IGOR N	
NEW YORK, NY 10022				
			ART UNIT	PAPER NUMBER
			3628	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/18/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/18/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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michael.mathewson@wilmerhale.com

## Office Action Summary

**Application No.**

10/629,540

**Applicant(s)**

SNEERINGER, DAVID J.

**Examiner**

Igor N. Borissov

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Applicant's election of Invention F, without traverse, is acknowledged and entered. Claims 1-30 and 32-52 have been canceled. Claim 31 is currently pending in the application.

#### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 31 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-51 of copending Application No.

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09/222,787 (US 6,618,709 B1). While the conflicting claims are not identical, they are not patentably distinct, because the structural elements recited in 09/222,787 application is capable of performing functionality recited in claim 31 of the current application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jenney et al. (US 5,897,607) in view of Cunningham et al. (US 6,124,806).

Claim 31. Jenney et al. teaches a computer architecture for a service provider network for monitoring resource usage of a plurality of remotely located resource consuming devices comprising:

a plurality of resource meters, operatively connected to a plurality of remotely located resource consuming devices and to an internal computer network via at least one of recorder translator, network server, dialer and applications server, said plurality of resource meters connectable to at least one of a public switched telephone network and a wireless communications network and in operative communication with at least one server (Figs. 1, 2; C. 3, L. 30-39; C. 4, L. 11-23; C. 5, L. 4-23);

an area computer network connected to said internal computer network, said internal computer network connected to at least one of database server, application server, web server, ftp site server (Figs. 1, 2; C. 4, L. 11-23; C. 5, L. 4-23);

at least one of first service provider network computer, in operation, receiving a resource usage data query from a user via a global network, retrieving the resource usage data responsive to the resource usage data query entered by the user, and

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transmitting resource management information based on the resource usage data collected from the plurality of resource meters to the user via the global network (Figs. 1, 2; C. 4, L. 11-23; C. 5, L. 4-23);

a modem is used by the user to connect to the global network and to the resource meter directly (C. 4, L. 15-16);

at least one second service provider network server

Jenney et al. does not specifically teach:

a first firewall connected to at least one of said web server and said ftp site server, and a second firewall connected to at least one of said database server;

a backup server is connected to said internal computer network and to a backup storage facility; and

that said at least one second service provider network server includes a World Wide Web site.

Cunningham et al. teaches a wide-area remote telemetry system which monitors and controls remote devices by means of a information control system, including a plurality of sensor interface modules which transmit information to at least one data collection module which gathers, process (translates), stores and transmits information to a host system via standard external communication systems so that this information may then be transmitted to customers or may be accessed by customers as desired. Furthermore, Cunningham et al. discloses the use of firewalls, backup devices and a Web site (C. 32, L. 26 - C. 33, L. 55; C. 34, L. 66 - C. 35, L. 24; C. 46, L. 45-61; C. 19, L. 10-37).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Jenney et al. to include that a first firewall connected to at least one of said web server and said ftp site server, and a second firewall connected to at least one of said database server, as suggested in Cunningham et al., because it would advantageously provide security for said system.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Jenney et al. to include a backup server which is connected to said internal computer network and to a backup storage facility, as

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suggested in Cunningham et al., because it would advantageously enhance the reliability of said system.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Jenney et al. to include that said at least one second service provider network server includes a World Wide Web site, as suggested in Cunningham et al., because it would advantageously allow to provide an access to the collected data by customers or third parties.

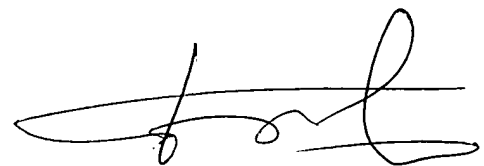
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IB

4/11/2007



IGOR N. BORISSOV  
PRIMARY EXAMINER